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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,565	01/30/2002	John R. Stewart	2063.003600	7804
23720	7590	12/18/2003	EXAMINER	
WILLIAMS, MORGAN & AMERSON, P.C. 10333 RICHMOND, SUITE 1100 HOUSTON, TX 77042			JOHNSON, STEPHEN	
		ART UNIT	PAPER NUMBER	
		3641		

DATE MAILED: 12/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/060,565	STEWART, JOHN R. <i>SW</i>
	Examiner	Art Unit
	Stephen M. Johnson	3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 October 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17, 19-23 and 25-46 is/are rejected.
- 7) Claim(s) 18 and 24 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 . | 6) <input type="checkbox"/> Other: _____ .                                   |

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1. Applicant's election with traverse of the group I invention in Paper No. 3 is acknowledged. The traversal is found persuasive and the restriction requirement withdrawn. An action on claims 1-46 follows.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3, 5-6, 8, 11-17, 19-21, 25, 29-31, 33, and 35-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al..

Smith et al. disclose a method and associated apparatus for targeting comprising:

- a) program storage medium for storing 3-dimensional data; para [38]
- b) a controller for generating the 3-dimensional data; para [37]; last 7 lines
- c) a controller indicating a subset of the 3-dimensional data; and para [37, 50]
- d) targeting the location of the subset. para [44, 50]

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 2, 4, 22-23, 26-27, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. in view of Wangler.

Smith et al. apply as previously recited. However, undisclosed is a camera that is LADAR camera. Wangler teaches a camera that is a LADAR camera, see entire disclosure. Applicant is substituting one type of camera for another as explicitly encouraged by the primary references (see Smith et al. para. [39]). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Wangler to the Smith et al. method and associated apparatus and have a method and associated apparatus that uses a different type of camera.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 4-11, 15-17, 20, 25-35, 37-38, 41-42, and 44-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Jenkins et al..

Jenkins et al. disclose a method and associated apparatus for targeting comprising:

- a) program storage medium for storing 3-dimensional data; col. 5, lines 5-17
- b) a controller for generating the 3-dimensional data; col. 3, lines 64-67;
- and col. 4, lines 1-3 col. 4, lines 1-3
- c) a controller indicating a subset of the 3-dimensional data; and col. 4, lines 1-3 and

d) targeting the location of the subset. col. 20, lines 14-18

8. Claims 12-14, 36, and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins et al. in view of Smith et al..

Jenkins et al. apply as previously recited. However, undisclosed is a storage medium that includes floppy disks; magnetic storage medium; or an optical disk. Smith et al. teach a storage medium that includes floppy disks; magnetic storage medium; or an optical disks (see col. 3, lines 4-6). Applicant is selecting a particular type of storage medium for the storage medium disclosed in Jenkins et al. said storage medium being commonly known in this art. It would have been obvious to a person of ordinary skill in this art to apply the teachings of Smith et al. to the Jenkins et al. apparatus and associated method and have an apparatus and associated method that uses a different type of storage medium.

9. Claims 18 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

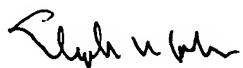
10. Applicant is advised that should claim 45 be found allowable, claim 46 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Raimondi, Stann et al., Yano et al., Moriwaki et al., and Klink disclose other state of the art targeting and/or sighting assemblies.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158. The examiner can normally be reached on Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.



STEPHEN M. JOHNSON  
PRIMARY EXAMINER

Stephen M. Johnson  
Primary Examiner  
Art Unit 3641

SMJ